

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sebastian Saavedra	Team: Squad #1	CCRB Case #: 201901928	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/03/2019 11:30 AM	Location of Incident: § 87(2)(b) Inside 47th Precinct stationhouse; § 87(2)(b)	Precinct: 47	18 Mo. SOL 9/3/2020	EO SOL 4/20/2021	
Date/Time CV Reported Tue, 03/05/2019 9:41 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/05/2019 9:41 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Kyron Delarosa	11960	960431	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ryan Duffany	04399	960483	047 PCT
2. POM Joel Pepen	21756	959883	047 PCT
3. SGT Angel Dejesus	4405	934733	040 PCT
4. SGT Howard Roth	03468	949582	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kyron Delarosa	Abuse: Inside § 87(2)(b) in the Bronx, Police Officer Kyron Delarosa entered § 87(2)(b)'s room.	§ 87(2)(b)
B.POM Kyron Delarosa	Force: Inside § 87(2)(b) in the Bronx, Police Officer Kyron Delarosa used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Kyron Delarosa	Force: Outside the 47th Precinct stationhouse, Police Officer Kyron Delarosa used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Kyron Delarosa	Force: In front of § 87(2)(b) in the Bronx, Police Officer Kyron Delarosa used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On March 5, 2019, § 87(2)(b) filed this complaint over the phone with the CCRB.

On March 3, 2019, § 87(2)(b) was inside her home § 87(2)(b) in the Bronx, when Police Officer Kyron Delarosa, and Police Officer Ryan Duffany, both assigned to the 47th Precinct, entered the building in response to a dispute between § 87(2)(b) and her tenant, § 87(2)(b). PO Delarosa entered § 87(2)(b)'s room to speak to her (**Allegation A: Abuse of Authority - § 87(2)(g)**). PO Delarosa handcuffed § 87(2)(b) and pulled on her arm, causing her discomfort (**Allegation B: Force - § 87(2)(g)**). The officers brought her to the 47th Precinct stationhouse. While there, § 87(2)(b) requested medical attention, and an ambulance was called. PO Delarosa escorted § 87(2)(b) to the ambulance, and yanked on her arm while doing so (**Allegation C: Force - § 87(2)(g)**). At the hospital, PO Delarosa pushed § 87(2)(b) down onto a medical gurney (**Allegation D: Force - § 87(2)(g)**).

BWC footage was obtained for this case and it captures part of the incident (Board Reviews 01, 02, 03, and 04).

Findings and Recommendations

Allegation A: Abuse of Authority - Inside § 87(2)(b) in the Bronx, Police Officer Kyron Delarosa entered § 87(2)(b)'s room.

§ 87(2)(b) testified that, at the time of this incident, her tenant, § 87(2)(b) had a limited order of protection against her, the specific details of which § 87(2)(b) did not recall. § 87(2)(b) and § 87(2)(b) live in the same apartment and share a bathroom, kitchen, and living room, but have separate bedrooms. § 87(2)(b) took photographs of § 87(2)(b) exiting the bathroom in order to document § 87(2)(b)'s "mistreatment" of their shared living space, namely leaving the bathtub dirty. § 87(2)(b) was inside her bedroom with her door open when PO Delarosa walked inside of it. PO Delarosa told § 87(2)(b) that § 87(2)(b) had called 911 as she feared for her life (Board Review 05).

§ 87(2)(b) testified that her order of protection against § 87(2)(b) prohibited § 87(2)(b) from making any sort of contact with her, including speaking to her. As she was exiting the shower, § 87(2)(b) took a photograph of her and began yelling and swearing at her. § 87(2)(b) felt threatened by the swearing and loud tone of § 87(2)(b)'s voice, and called 911. PO Delarosa and PO Duffany arrived, and § 87(2)(b) went downstairs and opened the door to the building for them. The officers went upstairs to their second-floor apartment, and § 87(2)(b) explained to them what had happened. § 87(2)(b) pointed out § 87(2)(b)'s bedroom, where § 87(2)(b) was. The bedroom door was closed. PO Delarosa knocked on the door and § 87(2)(b) opened it and exited. § 87(2)(b) then went into her own bedroom with PO Duffany and did not see or hear the interaction between § 87(2)(b) and PO Delarosa (Board Review 06).

Both PO Delarosa and PO Duffany (Board Reviews 07-08) consistently testified that they received a radio run of an order of protection being violated. Upon arriving on scene, § 87(2)(b) let them into the building and apartment. PO Delarosa stated that he could not recall where § 87(2)(b) was when they entered the apartment, but they interacted with her in the living room.

BWC from PO Delarosa begins with both officers and § 87(2)(b) standing in the common area (kitchen/living room) at § 87(2)(b). The video begins 30 seconds prior to her arrest and did not capture either the initial entry into the apartment or PO Delarosa entering § 87(2)(b)'s bedroom (Board Reviews 01 and 02).

Absent consent or exigent circumstances, an officer may not make a warrantless entry into a given premises in which an individual has a legitimate expectation of privacy. Payton v. New York, 445 U.S. 573 (1980) (Board Review 13).

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Force - Inside § 87(2)(b) in the Bronx, Police Officer Kyron Delarosa used physical force against § 87(2)(b).

§ 87(2)(b) alleged that as PO Delarosa handcuffed her, he pulled her arm behind her back, causing her discomfort. § 87(2)(b) stated that she believed this action to be excessive.

BWC footage from PO Duffany showed that PO Duffany, not PO Delarosa, handcuffed § 87(2)(b) with no resistance at 00:30 in the video. § 87(2)(b) does not appear to resist and neither officer tells her stop resisting. PO Delarosa was standing in front of § 87(2)(b) speaking to her, throughout, and was not involved in placing § 87(2)(b) in handcuffs. PO Duffany used no force, and § 87(2)(b) made no complaint of force, pain, or injury at the time (Board Reviews 01-02).

§ 87(2)(g)

Allegation C: Force - Outside the 47th Precinct stationhouse, Police Officer Kyron Delarosa used physical force against § 87(2)(b).

§ 87(2)(b) testified that she requested medical attention so that she could obtain medication for a pre-existing condition. As PO Delarosa escorted her to the ambulance in front of the 47th Precinct stationhouse, PO Delarosa told her to walk faster, and yanked on one of her arms, causing her to stumble (Board Review 05).

PO Delarosa testified that, while at the stationhouse, § 87(2)(b) requested medical attention, and an ambulance was called for her. PO Delarosa held onto one of § 87(2)(b)'s arms in order to keep her steady as she walked from the stationhouse to the ambulance, because her legs were shackled per standard procedure for bringing a prisoner to the hospital. He used no other force (Board Review 08).

PO Duffany denied observing PO Delarosa use any force on § 87(2)(b) while at the 47th Precinct stationhouse (Board Review 07).

BWC footage from PO Duffany shows PO Delarosa holding § 87(2)(b)'s left arm as he walks her to the ambulance. PO Delarosa and PO Duffany tell § 87(2)(b) to keep walking saying that she keeps stopping. § 87(2)(b) tells PO Delarosa "you don't have to do all that" and accuses PO Delarosa of manhandling her. PO Delarosa is offscreen for the majority of the walk from the stationhouse to the ambulance. Additionally, the footage captures § 87(2)(b) from the waist up and does not clearly capture whether she either stops or stumbles (Board Review 04).

§ 87(2)(g)

Allegation D: Force- In front of § 87(2)(b) in the Bronx, Police Officer Kyron Delarosa used physical force against § 87(2)(b).

§ 87(2)(b) testified that, upon arriving at § 87(2)(b), she refused to exit the ambulance because she did not wish to be treated at § 87(2)(b). PO Delarosa told her that she did not have a choice, and would need to exit the ambulance. PO Delarosa pushed § 87(2)(b) on both arms, down onto the hospital gurney inside the ambulance, and wheeled her to the hospital on the gurney (Board Review 05).

EMT § 87(2)(b) testified that while in the ambulance § 87(2)(b) told PO Delarosa not

to touch her, though he was not doing so. She stated that § 87(2)(b) did not refuse to leave the ambulance and was not pushed down onto a hospital gurney at any point during this incident (Board Review 12).

PO Delarosa testified that he escorted § 87(2)(b) in the ambulance to § 87(2)(b), and that, once there, she did not resist being taken from the ambulance to hospital. He denied pushing § 87(2)(b) onto a medical gurney or using any force on her after arriving at the hospital (Board Review 08).

No BWC footage was available of this part of the incident. Per Patrol Guide Procedure 212-123, officers are prohibited from recording within a medical facility (Board Review 14). However, PO Duffany's BWC, at 1:07, captured § 87(2)(b) informing EMS that she needed to go to North Central Hospital as they had her medical history.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of February 24, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 10).
- § 87(2)(b)

Squad No.: 1

Investigator: Sebastian Saavedra
Signature

Investigator
Print Title & Name

5/7/2020
Date

Squad Leader: Mgr. Joy Almeyda
Signature

Print Title & Name

5.7.20
Date